

## Bureau of Land Management, Interior

## §2568.106

System, National Wilderness Preservation System, or a National Forest Monument.

### **§2568.101 If the land I used and occupied is within a CSU other than a National Wilderness or any part of a National Forest, can I receive a title to it?**

You may receive title if you qualify for that allotment and the managing agency of the CSU agrees that conveyance of that allotment is not inconsistent with the purposes of the CSU.

### **§2568.102 Is the process by which the managing agency decides whether my allotment is not inconsistent with the CSU the same as other such determination processes?**

No. This process is unique to this regulation. It should not be confused with any similar process under any other act, including the incompatibility process under the National Wildlife Refuge System Improvement Act of 1997.

### **§2568.103 By what process does the managing agency of a CSU decide if my allotment would be consistent with the CSU?**

(a) BLM conducts a field exam, with you or your representative, to check the boundaries of the land for which you are applying and to look for signs of use and occupancy. The CSU manager or a designated representative may also attend the field exam.

(b) The CSU manager or representative assesses the resources to determine if the allotment would be consistent with CSU purposes at that location. You may submit any other information for the CSU manager to consider. You or your representative may also accompany the CSU representative on any field exam.

(c) The CSU manager submits a written decision and resource assessment to BLM within 18 months of the BLM field exam. The CSU manager will send you a copy of the decision and a copy of the resource assessment.

### **§2568.104 How will a CSU manager determine if my allotment is consistent with the CSU?**

The CSU manager will decide this on a case-by-case basis by considering the

law or withdrawal order which created the CSU. The law or withdrawal order explains the purposes for which the CSU was created. The manager would also consider the mission of the CSU managing agency as established in law and policy. The manager will also consider how the cumulative impacts of the various activities that could take place on the allotment might affect the CSU.

### **§2568.105 In what situations could a CSU manager likely find an allotment to be consistent with the CSU?**

An allotment could generally be consistent with the purposes of the CSU if:

(a) The allotment for which you qualify is located near land that BLM has conveyed to a Native corporation under ANCSA, or,

(b) A Native corporation has selected the land under ANCSA and has said it would relinquish such selection, as long as the remaining ANCSA selection comports with the appropriate selection rules in 43 CFR 2650. Any relinquishment must not cause the corporation to become underselected. See 43 U.S.C. 1621(j)(2) for a definition of underselection.

### **§2568.106 In what situations could a CSU manager generally find an allotment to be inconsistent with the purposes of a CSU?**

An allotment could generally be inconsistent in situations including, but not limited to, the following:

(a) If, by itself or as part of a group of allotments, it could significantly interfere with biological, physical, cultural, scenic, recreational, natural quiet or subsistence values of the CSU.

(b) If, by itself or as part of a group of allotments, it obstructs access by the public or managing agency to the resource values of surrounding CSU lands.

(c) If, by itself or as part of a group of allotments, it could trigger development or future uses in an area that would adversely affect resource values of surrounding CSU lands.

(d) If it is isolated from existing private properties and opens an area of a CSU to new access and uses that adversely affect resource values of the surrounding CSU lands.

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(e) If it interferes with the implementation of the CSU management plan.

### ALTERNATIVE ALLOTMENTS

#### **§ 2568.110 If I qualify for Federal land in one of the categories BLM cannot convey, is there any other way for me to receive an allotment?**

Yes. If you qualify for land in one of the categories listed in section 2568.91 which BLM cannot convey, you may choose an alternative allotment from the following types of land within the same ANCSA Region as the land for which you originally qualified:

(a) Land within an original withdrawal under section 11(a)(1) of ANCSA for selection by a Village Corporation which was:

- (1) Not selected,
- (2) Selected and later relinquished, or
- (3) Selected and later rejected by BLM;

(b) Land outside of, but touching a boundary of a Village withdrawal, not including land described in section 2568.91 or land within a National Park; or

(c) Vacant, unappropriated, and unreserved land. (For purposes of this section, the term “unreserved” includes land withdrawn solely under the authority of section 17(d)(1) of ANCSA.)

#### **§ 2568.111 What if BLM decides that I qualify for land that is in the category of Federal land that BLM cannot convey?**

BLM will notify you in writing that you are eligible to choose an alternative allotment from lands described in section 2568.110.

#### **§ 2568.112 What do I do if BLM notifies me that I am eligible to choose an alternative allotment?**

You must file a request for an alternative allotment in the Alaska State Office as stated in section 2568.71 and follow all the requirements you did for your original allotment application.

#### **§ 2568.113 Do I have to prove that I used and occupied the land I've chosen as an alternative allotment?**

No. If BLM cannot convey the allotment for which you originally apply, and you are eligible to choose an alternative allotment, you do not have to

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prove that you used and occupied the land in the alternative location.

#### **§ 2568.114 How do I apply for an alternative allotment if the CSU manager determines my application is inconsistent with a CSU?**

You should contact the appropriate CSU manager as quickly as possible to discuss resource concerns, potential constraints, and impacts on existing management plans. After you do this you must file a request for an alternative allotment with the BLM Alaska State Office as stated in section 2568.71 and follow all the requirements of the original allotment application. If the alternative allotment land is also in the CSU, the CSU manager will evaluate it to determine if conveyance of an allotment there would be inconsistent with the CSU as well.

#### **§ 2568.115 When must I apply for an alternative allotment if the CSU manager determines my application is inconsistent with a CSU?**

Your application for an alternative allotment must be filed:

(a) Within 12 months of when you receive a decision from a CSU manager that says your original allotment is inconsistent with the purposes of the CSU or,

(b) Within six months of when you receive a decision from the CSU manager on your request for reconsideration of the original decision affirming that your original allotment is inconsistent with the purposes of the CSU, or

(c) Within three months of the date an appellate decision from the appropriate Federal official becomes final. This official will be either:

- (1) The Regional Director of the National Park Service (NPS),
- (2) The Regional Director of the U.S. Fish and Wildlife Service (USFWS), or
- (3) The BLM Alaska State Director

### APPEALS

#### **§ 2568.120 What can I do if I disagree with any of the decisions that are made about my allotment application?**

You may appeal all decisions, except for CSU inconsistency decisions or terminations by the Department of